TRANSMITTAL OF APPEAL BRIEF	Docket No. 37202/102001; 990006

In re Application of: Rod A. Cherkas et al.

Application No. 09/900,485-Conf. #4159	Filing Date July 6, 2001	Examiner S. E. Chencinski	Group Art Unit 3691

Invention: AUTOMATED, USER SPECIFIC TAX ANALYSIS OF INVESTMENT TRANSACTIONS USING A PERSONAL TAX PROFILE

TO THE COMMISSIONER OF PATENTS:

Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed: September 18, 2008   .

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rod A. Cherkas et al.

Confirmation No.: 4159

Application No.: 09/900,485

Art Unit: 3691

Filed: July 6, 2001

Examiner: S. E. Chencinski

For: AUTOMATED, USER SPECIFIC TAX
       ANALYSIS OF INVESTMENT
       TRANSACTIONS USING A PERSONAL TAX
       PROFILE

APPEAL BRIEF UNDER 37 CFR § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR § 41.37, please consider the following Appellant's Brief in

the referenced application currently before the Board of Patent Appeals and Interferences ("the

Board"). As required under § 41.37(a), this brief is filed more than two months after the Notice

of Appeal filed in this case on February 15, 2008, and is in furtherance of said Notice of Appeal.

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TABLE OF AUTHORITIES

I.   REAL PARTY IN INTEREST

The real party in interest for the referenced application is Intuit, Inc.   An Assignment transferring all interest in the referenced application from the inventors to Intuit, Inc. was recorded by the USPTO on January 31, 2002.   The Assignment is recorded at Reel 012548, Frame 0111.

II.   RELATED APPEALS AND INTERFERENCES

To the best of the knowledge of the Appellants and Appellants' legal representative, there are no other appeals, interferences, or judicial proceedings which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

III.   STATUS OF CLAIMS

A.   Total Number of Claims in Application

There are 26 claims pending in this application.

B.   Current Status of Claims

1.   Claims pending: 1-26

2.   Claims rejected: 1-26

C.   Claims On Appeal

The claims on appeal are claims 1-26

IV.   STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.   Thus, all of the amendments have been entered and considered by the Examiner.   The pending claims of record that presented in the Claims Appendix.   The claims in the Claims Appendix include the amendments filed by the Applicant on September 19, 2007.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a computer-implemented method for determining the consequences of an investment transaction to a potential total future tax liability of a user. *See, e.g.,* paragraph [0014] of the Specification. In order to determine the consequences of an investment transaction to a potential total future tax liability, a tax profile for the user is stored. *See, e.g.,* paragraph [0023] of the Specification. The tax profile contains tax return data for at least one tax year of the user, and combines and stores actual and forecasted tax data particularized to the user. *See, e.g.,* paragraphs [0011], [0023], and [0047] of the Specification. The tax profile associated with the user is stored in accessible form in a tax profile database. *See, e.g.,* paragraph [0013] of the Specification. The tax profile of the user is accessed to obtain tax return information relevant to determining the user's total tax liability in a current tax year. *See, e.g.,* paragraph [0030] of the Specification. The user is provided with the potential total future tax liability of the user based on a proposed brokerage transaction. *See, e.g.,* paragraphs [0014] and [0057] of the Specification. The user's potential total future tax liability is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile. *See, e.g.,* paragraph [0031] of the Specification.

Independent claim 19 is directed toward a computer-implemented method for determining the tax consequences of a plurality of investment transactions. *See, e.g.,* paragraph [0014] of the Specification. In order to determine the consequences of an investment transaction to a potential total future tax liability, a tax profile for the user is stored. *See, e.g.,* paragraph [0023] of the Specification. The tax profile contains tax return data for at least one tax year of the user, and combines and stores actual and forecasted tax data particularized to the user. *See, e.g.,* paragraphs [0011], [0023], and [0047] of the Specification. The tax profile associated with the user is stored in accessible form in a tax profile database. *See, e.g.,* paragraph [0013] of the

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Specification. A plurality of proposed investment transactions from the user to be executed in a group is received. *See, e.g.,* paragraphs [0027] and [0035] of the Specification. The tax profile of the user is accessed to obtain tax return information relevant to determining the user's total tax liability in a current tax year for the proposed group of transactions. *See, e.g.,* paragraph [0030] of the Specification. The user is provided with the potential total future tax liability of the user for the group of transactions. *See, e.g.,* paragraphs [0014] and [0057] of the Specification. The user's potential total future tax liability is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile. *See, e.g.,* paragraph [0031] of the Specification.

Independent claim 20 is directed toward a computer-implemented method for determining the tax consequences for each of a plurality of investment transactions. *See, e.g.,* paragraph [0014] of the Specification. In order to determine the consequences of an investment transaction to a potential total future tax liability, a tax profile for the user is stored. *See, e.g.,* paragraph [0023] of the Specification. The tax profile contains tax return data for at least one tax year of the user, and combines and stores actual and forecasted tax data particularized to the user. *See, e.g.,* paragraphs [0011], [0023], and [0047] of the Specification. The tax profile associated with the user is stored in accessible form in a tax profile database. *See, e.g.,* paragraph [0013] of the Specification. A plurality of separate proposed investment transactions from the user to is received. *See, e.g.,* paragraphs [0027] and [0035] of the Specification. The tax profile of the user is accessed to obtain tax return information relevant to determining the user's total tax liability in a current tax year for each transaction. *See, e.g.,* paragraph [0030] of the Specification. The user is provided with the potential total future tax liability of the user based on each proposed transaction. *See, e.g.,* paragraphs [0014] and [0057] of the

Specification. The user's potential total future tax liability is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile. *See, e.g.,* paragraph [0031] of the Specification.

Independent claim 22 is directed toward a system. *See, e.g.,* Figure 1. The system comprises a tax profile database that stores a plurality of tax profiles particularized to a plurality of users. *See, e.g.,* paragraph [0013] of the Specification. Each tax profile is stored in accessible form and includes tax return information for each corresponding user. *See, e.g.,* Figure 1 and paragraph [0013] of the Specification. Each tax profile combines and stores actual and forecasted tax data particularized to the user. *See, e.g.,* paragraphs [0011], [0023], and [0047] of the Specification. The system further comprises a brokerage interface that receives a proposed transaction from the user. *See, e.g.,* paragraph [0038] and Figure 6 of the Specification. The system also includes a tax engine that receives the proposed transaction and obtains the tax return information from the tax database and calculates a total potential future tax liability of the user based on the proposed transaction. *See, e.g.,* Figure 1 and paragraphs [0014] and [0030] of the Specification. The total potential future tax liability of the user is calculated using the actual and forecasted tax data and the tax return information of the user. *See, e.g.,* paragraph [0031] of the Specification.

Independent claim 24 is directed toward a user interface for a computer system. *See, e.g.,* Figures 2-5 and paragraph [0028] of the Specification. The user interface comprises a first window for receiving at least one proposed investment transaction entered by a user. *See, e.g.,* paragraph [0042] of the Specification. The user interface also includes a control for executing, in response to selection by the user, a determination of a total potential future tax liability of the user for the proposed transaction. *See, e.g.,* Figures 2, reference number 201 of

the Specification. The total potential future tax liability of the user is computed using a tax profile, where the tax profile combines and stores actual and forecasted tax data particularized to the user and tax return information of the user from at least one tax year. . *See, e.g.,* paragraphs [0011], [0023], and [0047] of the Specification. The tax profile associated with the user is stored in accessible form in a tax profile database. *See, e.g.,* Figure 1 and paragraph [0013] of the Specification. The user interface also comprises a second window for displaying the total potential future tax liability of the user, as a consequence of the proposed transaction. *See, e.g.,* Figures 2-5 and paragraph [0028] of the Specification.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The present Appeal addresses the following ground of rejection:

Whether claims 1-26 are patentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,161,098 ("Wallman").

VII.   ARGUMENT

In this Appeal, Appellants argue that claims 1-26 are patentable over Wallman for at least the reasons set forth below. For the purposes of this Appeal, claims 1-26 stand or fall together. Independent claim 1 is representative of the group including claims 1-26.

A.   Non-Functional Descriptive Language

The Examiner contends that the two "wherein" clauses in independent claim 1 constitute non-functional descriptive language, and are not given patentable weight. *See* Office Action mailed November 30, 2007, pages 3 and 14.

Initially, Applicant asserts that the two "wherein" clauses in independent claim 1 are not merely non-functional. MPEP § 2106.01 states that "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer

component. MPEP § 2106.01 further states that "descriptive material" [is] nonstatutory when claimed as descriptive material *per se,* citing *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. The two "wherein" clauses recite "wherein the tax profile combines and stores actual and forecasted tax data particularized to the user, wherein the tax profile associated with the user is stored in accessible form in a tax profile database" and "wherein the potential total future tax liability of the user is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile." Applicant respectfully asserts that neither of the aforementioned "wherein" clauses recite descriptive material *per se*. The first "wherein" clause clearly recites the type of information contained with the tax profile. This is a key feature of the invention, because the robust data stored in the tax profile is what actually allows the determination of total future tax liability of a user. Further, the first "wherein" clause recites that the information contained within the tax profile is particularized to a user. This limitation indicates that the information is particularized (*i.e.,* specific) to the user associated with the tax profile (*i.e.,* with the user's specific financial condition), and is *not* generic or typical information that is common to all. The second "wherein" clause ties in the fact that the total future tax liability of the user is computed using all the information available within the tax profile, and not simply a single year's tax return or generic information that is not particularized to the user.

The Examiner's interpretation of the aforementioned features as being "non-functional" and as merely describing obvious content is completely incorrect, and is illustrative of why the Examiner continues to improperly read out these distinct limitations and assert that Wallman teaches the limitations of the claimed invention. In fact, the aforementioned features of the tax profile are precisely what enable user specific total future tax liability to be calculated, which is not typically done on a transaction basis because so much information is necessary to compute

total future tax liability, and such information is not readily available in one place to use in performing tax liability calculations. Applicant asserts that by classifying the aforementioned features as non-functional and blindly determining that the features do not have patentable weight, the Examiner has completely read out the limitations and has misunderstood the novel aspects of the claimed invention.

B.   Inherency

The Examiner contends that, by definition, a tax return is confined to one tax year, so tax information is inherently related to each separate year. The Examiner further contends that Wallman teaches storing a tax profile containing tax return data for at least one tax year of the user, and states that the stored tax profile containing the tax return data is *inherent* (*see* Action mailed November 30, 2007, page 3). Applicants respectfully assert the Examiner's inherency argument is flawed for at least the following reasons.

To support a rejection based on inherency, "the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic <u>necessarily</u> flows from the teachings of the applied prior art." MPEP § 2112 (citing *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Wallman simply teaches computing a tax liability for *a particular transaction or series of transactions* (*i.e.,* selling of stocks/bonds/assets/liabilities). *See* Wallman, col. 3, ll. 35-37. Wallman clearly states "determining the potential tax consequences that would result from trading various combinations of the plurality of assets/liabilities, in which each of the potential tax consequences represents the potential tax consequence that would result from trading one particular subset of assets/liabilities." Thus, Wallman is focused only on tax consequences resulting from a *particular sale* of one or more securities. Wallman is only concerned with this particular sale, so Applicants assert that storing tax data unrelated to this particular transaction

(*e.g.*, actual and forecasted tax data particularized to a user) in a tax profile would be completely unnecessary. In fact, Wallman is completely silent with respect to, and therefore cannot teach or suggest, storing actual and forecasted tax data particularized to a user in accessible form in a tax profile associated with the user. Thus, such a tax profile is not *necessary* from the teachings of Wallman, so such a claim of inherency is improper.

Further, the combining and storing of such robust tax data *in an accessible form* is not something that can be characterized as inherent, because tax professionals view this as something that is lacking in current tax products/software. The Examiner's contention that Wallman teaches a tax profile as required by the claimed invention would require mischaracterizing the teachings of Wallman and/or alter the primary mode of operation taught by Wallman to a procedure not even contemplated by Wallman, both of which are improper. *See*, MPEP §2143.03.

C.   Claims 1-26 are patentable over Wallman

MPEP §2143 states that "[t]he key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See,* MPEP §2143. In the Office Action mailed November 30, 2007, the Examiner, in articulating the analysis used to reject the claims under 35 U.S.C. § 103, has described the various claimed elements taught and not taught by Wallman. *See* Office Action mailed November 20, 2007, p. 3-4. The Examiner then concludes by asserting that "an ordinary practitioner of the art...would have found it obvious to establish a computer-implemented method for providing potential future tax liability for a user based on a proposed brokerage transaction and the tax return information from the tax profile...for enabling a small investor

with a portfolio of securities to understand and manage the related taxable events and cash implications created by buying and selling securities in a complex portfolio" *Id.*

Using the above rationale, the Examiner "must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference; …" MPEP § 2143(A).

Independent claim 1 recites, in part, "wherein the tax profile combines and stores actual and forecasted tax data *particularized to the user*" [Emphasis added]. Further, independent claim 1 requires that this particularized information be used to compute the "total future tax liability of the user" for a potential investment transaction. Because embodiments of the present invention combine tax data from a variety of sources and store such tax data in the user tax profile in accessible form, embodiments of the invention provide a unique database of information specific to a user that was previously difficult to gather, maintain, and quickly recall.

Turning to the rejection, The Examiner contends that Wallman teaches determining consequences of an investment transaction to a potential total tax liability of a user. The Examiner further contends that Wallman teaches storing a tax profile containing tax return data for at least one tax year of the user, and states that the stored tax profile containing the tax return data is inherent (*see* Office Action mailed November 30, 2007, page 3).

Wallman teaches computing a tax liability for *a particular transaction or series of transactions* (*i.e.,* selling of stocks/bonds/assets/liabilities) (*see* Wallman, col. 3, ll. 35-37). Wallman clearly states "determining the potential tax consequences that would results from trading various combinations of the plurality of asserts/liabilities, in which each of the potential

tax consequences represents the potential tax consequence that would result from trading one particular subset of asserts/liabilities." Thus, Wallman is focused only on tax consequences resulting from a particular (i.e. single) sale of one or more securities.

More importantly, Wallman does not gather, combine, and store tax data for multiple previous tax years for a particular user, such that a total future tax liability can be calculated on the spot for a user based on a proposed transaction or an actual completed transaction. Rather, Wallman only uses information related to the sale of assets/liabilities to compute tax consequences associated with *that single sale*. Said another way, Wallman is focused on using information from a *securities transaction* to compute tax liability as it relates solely to that transaction, and not tax information associated with a *user's overall tax scenario*. In fact, Wallman is completely silent, and therefore cannot teach or suggest, storing forecasted and actual tax data *particularized to a user* in accessible form in a tax profile associated with the user.

The cited portion of Wallman for this limitation of the recited claims merely discloses the use of information stored in tax programs to compare such tax program information to capital assets stored in the database to identify potential tax savings from engaging in *a transaction* involving the capital assets (*see* Wallman, col. 6, ll. 6-12). More importantly, Wallman also fails to teach or suggest using the information stored in the tax programs to compute a user's potential *total* future tax liability, as required by the amended independent claims. At best, Wallman arguably teaches that the tax program information is used to compute the tax consequences associated directly and solely with *the transaction(s)* involving the capital assets without taking into account the **overall** tax liability of the user (*e.g.,* whether the taxpayer gets a refund or is required to pay additional taxes when filing the future tax return).

The Examiner's contention that Wallman teaches a tax profile as required by the amended independent claims of the present application would require mischaracterizing the teachings of Wallman and/or alter the primary mode of operation taught by Wallman to a procedure not even contemplated by Wallman, both of which are improper. *See*, MPEP § 2143.03.

Thus, because Wallman does not consider the robust amount of tax data contemplated in the present invention in computing tax liability of a user, it is not possible for Wallman to provide a user with a *total* future tax liability using a tax profile that includes tax data particularized to a user, as required by the amended independent claims.

D.   Summary

In view of the above, the Examiner has failed to produce a *prima facie case* of obviousness. Thus, the Examiner's contentions do not support the rejection of claims 1-26. Accordingly, claims 1-26 are patentable over Wallman.

VIII. CONCLUSION

As shown above, the Examiner's contentions do not support the rejection of claims 1-26 under 35 U.S.C. § 103(a). Accordingly, a favorable decision from the Board is respectfully requested.

Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 37202/102001; 990006).

Dated: September 18, 2008   Respectfully submitted,

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CLAIMS APPENDIX

Claims Involved in the Appeal of Application Serial No. 09/900,485

1. A computer implemented method of determining the consequences of an investment transaction to a potential total future tax liability of a user, the method comprising:

   storing for the user a tax profile containing tax return data for at least one tax year of the user, wherein the tax profile combines and stores actual and forecasted tax data particularized to the user, wherein the tax profile associated with the user is stored in accessible form in a tax profile database;

   accessing the tax profile of the user to obtain tax return information relevant to determining the user's total tax liability in a current tax year;

   providing the user with the potential total future tax liability of the user based on a proposed brokerage transaction, wherein the potential total future tax liability of the user is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile.

2. The method of claim 1, further comprising:

   storing a brokerage account of the user in which the proposed brokerage transaction is to be entered; and

   linking the brokerage account of the user to the tax profile of the user for obtaining the tax return information to determine the potential total future tax liability.

3. The method of claim 2, wherein the brokerage account is stored in a brokerage account database, and the tax profile is stored in a tax profile database that is physically separate from the brokerage account database.

4. The method of claim 1, further comprising:

   determining a potential total future tax liability of the user in the absence of the proposed transaction;

   providing the user the potential total future tax liability from the proposed transaction in comparison with the potential total future tax liability in the absence of the proposed transaction.

5. The method of claim 1, wherein providing the user with a potential total future tax liability of the user based on the proposed transaction and the tax return information from the tax profile, further comprises:

    accessing prior completed transactions of the user relevant to the current tax return of the user; and

    determining the potential total future tax liability from the prior completed transactions, the tax return information, and the proposed transaction.

6. The method of claim 1, wherein the stored tax profile comprises user's tax filing status, and income information, deduction information.

7. The method of claim 1, wherein the stored tax profile comprises user's martial status, home ownership status, and dependent information.

8. The method of claim 1, wherein items of tax return information in the user's tax profile are mapped to fields on computer representations of tax forms use to compute tax liability.

9. The method of claim 1, wherein the tax profile stores tax return information for a plurality of prior tax years.

10. The method of claim 1, wherein the tax profile stores tax return information for alternative scenarios of the current tax year.

11. The method of claim 1, wherein the tax profile stores tax return information at a plurality of levels of granularity to allow for adaptation of tax data from external data sources.

12. The method of claim 1, wherein the tax profile stores for each investment, information from which an acquisition price, an acquisition date, a sale price, a sale date, a holding period, and a gain or loss can be computed.

13. The method of claim 1, further comprising

    receiving the user's tax profile from a direct manual input by the user.

14. The method of claim 1, further comprising:

    importing data for the user's tax profile from file generated by a tax preparation software application.

15. The method of claim 1, further comprising:

    responsive to the user executing the proposed transaction, updating the tax profile to reflect the proposed transaction.

16. The method of claim 1, wherein providing future tax liability data to the user further comprises:

    providing an amount of the total future tax liability to the user.

17. The method of claim 1, wherein providing future tax liability data to the user further comprises:

    providing an amount of the marginal tax owed or saved from the proposed transaction.

18. The method of claim 1, determining a potential total future tax liability of the user based on the proposed transaction and the tax return information from the tax profile further comprises:

    determining the potential total future tax liability based on the proposed transaction, the tax return information from the user's tax profile, and previously executed transactions effecting tax liability in the current tax year.

19. A computer implemented method of determining the tax consequences of a plurality of investment transactions, the method comprising:

    storing for a user a tax profile containing tax return data for at least one tax return of the user, wherein the tax profile combines and stores actual and forecasted tax data particularized to the user, wherein the tax profile associated with the user is stored in accessible form in a tax profile database;

    receiving a plurality of proposed investment transactions from the user to be executed in a group;

    accessing the tax profile of the user to obtain tax return information relevant to determining the user's total tax liability in a current tax year;

determining a potential total future tax liability of the user based on all of the proposed transactions, wherein the potential total future tax liability of the user is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile; and

providing the potential total future tax liability to the user.

20. A computer implemented method of determining the tax consequences of a plurality of investment transactions, the method comprising:

storing for a user a tax profile containing tax return data for at least one tax return of the user, wherein the tax profile combines and stores actual and forecasted tax data particularized to the user, wherein the tax profile associated with the user is stored in accessible form in a tax profile database;

receiving a plurality of separate proposed investment transactions from the user, each investment transaction to be executed independently;

accessing the tax profile of the user to obtain tax return information relevant to determining the user's total tax liability in a current tax year;

for each proposed investment transaction, determining a potential total future tax liability of the user based on the proposed transaction, wherein the potential total future tax liability of the user is computed using the actual and forecasted tax data and the tax return information of the user from the tax profile; and

providing the potential total future tax liability for each proposed investment transaction to the user.

21. The method of claim 20, further comprising:

determining the proposed investment transaction that has the best overall tax consequences for the user.

22. A system for determining a total future tax liability of a user for a proposed investment transaction, comprising:

a tax profile database that stores a plurality of tax profiles particularized to a plurality of users, each tax profile being stored in accessible form and including tax return information for the user, and wherein each tax profile combines and stores actual and forecasted tax data particularized to the user;

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a brokerage interface that receives a proposed transaction from the user; and

a tax engine that receives the proposed transaction and coupled to obtain the tax return information from the tax database, calculates a total potential future tax liability of the user based on the proposed transaction, wherein the total potential future tax liability of the user is calculated using the actual and forecasted tax data and the tax return information of the user.

23. The system of claim 22, further comprising:

an account database for storing user's brokerage accounts, each user brokerage account linked to the user's tax profile in the tax profile database.

24. A user interface for a computer system that determines the tax consequences of investment transactions, user interface being provided by a computer program encoded on a computer media usable by the computer system, the user interface comprising:

a first window for receiving at least one proposed investment transaction entered by a user;

a control for executing, in response to selection by the user, a determination of a total potential future tax liability of the user from the proposed transaction, wherein the total potential future tax liability of the user is computed using a tax profile, wherein the tax profile combines and stores actual and forecasted tax data particularized to the user and tax return information of the user from at least one tax year, and wherein the tax profile associated with the user is stored in accessible form in a tax profile database; and

a second window for displaying the total potential future tax liability of the user, as a consequence of the proposed transaction.

25. The user interface of claim 24, wherein the second window further displays:

a total income to the user after the proposed transaction;

any capital gains or losses from the proposed transaction;

any short term gains or losses from the proposed transaction;

a tax rate applicable to the user as a consequence of the proposed transaction; and

the potential future tax liability of the user as a consequence of the proposed transaction.

26. The user interface of claim 25, wherein the second window further displays:

 a total income to the user before the proposed transaction;

 any capital gains or losses before the proposed transaction;

 any short term gains or losses before the proposed transaction;

 a tax rate applicable to the user prior to the proposed transaction; and

 a total tax owed by the user prior to the proposed transaction.

EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

RELATED PROCEEDING APPENDIX

No related proceedings are referenced in II. above, hence no copies of decisions in related proceedings are required or provided.